

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RICHARD POLAK,

Plaintiff,

vs.

ROBERT LANEY,

Defendant.

8:18-CV-358

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion to Proceed in Forma Pauperis, [Filing 108](#), on appeal from summary judgment. Plaintiff timely filed his Notice of Appeal, [Filing 105](#), on November 28, 2020, but he failed to include an application to proceed in forma pauperis or pay the appellate filing fee. See [Filing 107](#). The Court noted Plaintiff had not been previously granted in forma pauperis status and gave Plaintiff until December 31, 2020, to move for leave to proceed in forma pauperis on appeal in compliance with [Federal Rule of Appellate Procedure 24](#) or to pay the appellate filing fee. [Filing 107](#). Plaintiff timely filed the present motion, but because Plaintiff again fails to comply with [Federal Rule of Appellate Procedure 24](#), his motion is denied.

[Federal Rule of Appellate Procedure 24](#) requires a party who was not previously approved to proceed in forma pauperis in the district-court action and desires to proceed in forma pauperis on appeal to first file a motion for leave to proceed in forma pauperis in the district court. The party "must" also "attach an affidavit" meeting three requirements. [Fed. R. App. P. 24\(a\)\(1\)](#). The affidavit must show "in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs," claim "an entitlement to redress," and state "the issues that the party intends to present on appeal." *Id.* Plaintiff did not attach an affidavit to the present motion. See [Filing 108](#). The motion itself states only that Plaintiff is "currently

unemployed and unable to pay the filling[sic] fee,” falling short of the requisite “detail prescribed by Form 4.” [Filing 108](#); Fed. R. App. P. 24(a)(1)(A); *see* F. R. App. P. Form 4. The motion similarly makes no mention of entitlement to redress nor the issues Plaintiff intends to present on appeal. *See* [Filing 108](#). Accordingly,

IT IS ORDERED:

1. Plaintiff’s Motion to Proceed in Forma Pauperis, [Filing 108](#), is denied.

Dated this 6th day of January, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'B. C. Buescher', written over a horizontal line.

Brian C. Buescher
United States District Judge